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Draft Amendments No. 3 to EAEU Food Safety Regulation

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FAIRS Subject Report

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Report Highlights:

The Eurasian Economic Commission (EEC), the regulatory body of the Armenia-Belarus-Kazakhstan-Kyrgyzstan-Russia Eurasian Economic Union (EAEU), published draft amendments No. 3 to the EAEU Technical Regulation “On Food Safety” for public comments. In particular, the draft establishes new definitions and requirements for chocolate and other cocoa products. The EEC’s comment period for this draft started on October 30, 2015, and will close on January 14, 2016.

As of the date of publication of this report, FAS/Moscow does not believe this measure has been notified to the World Trade Organization. Interested U.S. parties are encouraged to share their comments and concerns with the National Institute of Standards and Technology at ncsci@nist.gov.

General Information

The Eurasian Economic Commission (EEC), the regulatory body of the Armenia-Belarus-Kazakhstan-Kyrgyzstan-Russia [Eurasian Economic Union](#) (EAEU), published the following draft amendments No. 3 to the EAEU Technical Regulation “On Food Safety” for public comments on its website:

- [Draft Amendments No. 3 to the EAEU Technical Regulation "On Food Safety"](#)

In particular, the draft establishes new definitions and requirements for chocolate and other cocoa products.

An unofficial English translation of the above-referenced draft document can be found below.

The EEC’s comment period for the draft amendments to the CU Technical Regulation “On Food Safety” ends on January 14, 2016. Interested U.S. parties are encouraged to share their comments and concerns with the National Institute of Standards and Technology at ncsci@nist.gov.

As of the date of publication of this report, FAS/Moscow does not believe this measure has been notified to the World Trade Organization.

For translation of the original EAEU Technical Regulation “On Food Safety” and earlier amendments to this document please see GAIN reports [RS1233 Customs Union Technical Regulation on Food Safety](#), [RS1328 Draft Amendments to CU Technical Regulation on Food Safety](#), and [RS1431 Draft Amendments No. 2 to CU Technical Regulation on Food Safety](#).

BEGIN UNOFFICIAL TRANSLATION:

Draft

ATTACHMENT

to Decision of the Council of the Eurasian
Economic Commission from «__» __ 201
№ _____

AMENDMENT № 3
to the Technical Regulations of the Customs Union
“On Food Safety” (TP TC 021/2011)

1. The following definitions shall be added to Article 4:

«**chocolate** – food products manufactured from cacao paste and (or) cocoa butter, sugars and (or) sweeteners, that either contain or do not contain dairy products, cocoa powder with or without any other added food ingredients;

cocoa products – food products obtained through processing of cacao beans: cacao nibs, cacao paste, cocoa butter, cocoa powder, and cocoa cake;

cacao paste – cocoa product obtained by milling (grinding) roasted cacao nibs or crushed cacao beans with the mass fraction of cocoa butter 47.0 percent or higher and total mass fraction of cacao bean husks (cacao shell) and the germ (sprout) of cacao beans calculated as fat free solids 5.0 percent and less;

cacao nibs – cocoa product obtained by crushing roasted cacao nibs, with the mass fraction of cocoa butter 47.0 percent or higher and total mass fraction of cacao bean husks (cacao shell) and the germ (sprout) of cacao beans 2.0 percent and less;

cocoa butter – cocoa product, vegetable oil extracted from cacao paste or crushed cacao, or cacao nibs, which represents the triglyceride blend of fatty acids and related substances, with the fatty acid profile compatible with the one listed in paragraph 11.7, Attachment No.11 of the present Technical Regulations, with 1.75 percent or less free fatty acids calculated as oleic acid, 0.7 percent or less unsaponifiables measured by petroleum ether, and 0.35 percent or less cocoa butter if it is extracted by the pressing method;

cocoa powder – cocoa product obtained by milling cocoa cake with moisture content of 9.0 percent or less, fat (cocoa butter) content on a dry matter basis between 10.0 and 20.0 percent, for fat-free cocoa powder – less than 10.0 percent, and for the high-fat cocoa powder – 20.0 or more;

cocoa cake – cocoa product obtained from cacao paste by partial fat (cocoa butter) removal during pressing, with fat (cocoa butter) content on a dry matter basis between 10.0 and 20.0 percent, for the fat-free cocoa cake – less than 10.0 percent, and for the high-fat cocoa cake – 20.0 or more;

bitter chocolate (black chocolate) – chocolate with total cocoa dry solids on a dry matter basis of 55.0 percent or more, including cocoa butter of 33.0 percent or more;

dark chocolate – chocolate with total cocoa dry solids on a dry matter basis of 40.0 percent or more, including cocoa butter of 20.0 percent or more;

plain chocolate (chocolate) – chocolate with total cocoa dry solids on a dry matter basis of 35.0 percent or more, including cocoa butter of 18.0 percent or more and fat-free cacao dry solids of 14.0 percent or more;

sweet chocolate – chocolate with total cocoa dry solids on a dry matter basis of 30.0 percent or more, including cocoa butter of 18.0 percent or more and fat-free cocoa dry solids of 12.0 percent or more;

milk chocolate – chocolate with dairy ingredients containing on a dry matter basis: total cocoa dry solids of 25.0 percent or more, including fat-free cocoa dry solids of 2.5 percent or more, dry milk solids of 12.0 percent or more, including milk fat of 2.5 percent or more, and total cocoa butter and milk fat content of 25.0 or more;

extra-milk chocolate – chocolate with dairy ingredients containing on a dry matter basis: total cocoa dry solids of 20.0 percent or more, including fat-free cocoa dry solids of 2.5 percent or more, dry milk solids of 20.0 percent or more, including milk fat of 5.0 percent or more, and total cocoa butter and milk fat content of 25.0 or more;

white chocolate – chocolate with dairy ingredients and no cacao paste or cocoa powder content, containing on a dry matter basis: cocoa butter of 20.0 percent or more, total dry milk solids of 14.0 percent or more, including milk fat of 2.5 percent or more;

fondant chocolate – different types of chocolate that contain, excluding fondant white and fondant extra-milk chocolate, on a dry matter basis: total cocoa dry solids of 43.0 percent or more including cocoa butter of 26.0 percent or more, and fondant milk chocolate containing on a dry matter basis: total cocoa dry solids of 30.0 percent or more and dry milk solids of 18.0 percent and more including milk fat of 4.5 percent or more, with the crushing ratio of 97.0 percent or more, and 96.0 percent or more for chocolate with large inclusions;

chocolate powder – chocolate in fine powder form consisting of cacao paste, sugars and (or) sweeteners that either contains or does not contain cocoa powder, cocoa butter, with or without any added dairy products or other food ingredients, containing on a dry matter basis: total cocoa dry solids of 29.0 percent or more and cocoa butter of 15.0 percent or more;

chocolate with filling – chocolate that contains 20.0 percent or more of any filling product and 25.0 percent or more of the external chocolate shell (coating) and can be separated from the filling and made from chocolate mass;

chocolate mass – food product derived from cacao paste and (or) cocoa butter, sugars and (or) sweeteners either containing or not containing dairy products, cocoa powder, with or without other added food ingredients, intended for production of chocolate, chocolate sweets, and other food products;

chocolate glaze – chocolate mass intended for coating (glazing) and (or) decorating the confectionery or other food products;

plain chocolate glaze (chocolate glaze) – chocolate glaze containing on a dry matter basis: total cocoa dry solids of 35.0 percent or more, including cocoa butter of 31.0 percent or more and fat-free dry cocoa solids of 2.5 percent or more;

milk chocolate glaze – chocolate glaze with dairy ingredients containing on a dry matter basis: total cocoa dry solids of 25.0 percent or more, including total cocoa dry solids of 25.0 percent or more, including fat-free cocoa dry solids of 2.5 percent or more, dry milk solids of 14.0 or more including milk fat of 3.5 percent or more, with total cocoa butter and milk fat content of 31.0 percent or more;

white chocolate glaze - chocolate glaze with dairy ingredients, not containing cacao paste or cocoa powder, including on a dry matter basis: cocoa butter of 25.0 percent or more and dry milk solids of 14.0 percent or more, including milk fat of 2.5 percent or more;

fondant chocolate glaze - chocolate glaze containing on a dry matter basis: fat-free cocoa dry solids of 16.0 percent or more, cocoa butter of 31.0 percent or more, with the crushing ratio of 96.0 percent or more».

2. «Article 9a shall be added to Chapter 2 to read as follows:

«Article 9a. Requirements to chocolate, chocolate glaze, chocolate mass and cocoa products

1. Fat and oil products excluding instances listed in paragraph 2 of the present article are not allowed in the production of chocolate, chocolate glaze, chocolate mass, and cocoa products.

2. Cocoa butter equivalents and (or) SOS-type cocoa butter improvers are allowed in the production of chocolate, chocolate glaze and chocolate mass if their total mass fraction in the mentioned food products does not exceed 5.0 percent regardless of all food ingredients added given that the minimum levels of cocoa butter or total cocoa dry solids established in the present Technical Regulations are not lowered.

Coconut oil is allowed in the production of chocolate glaze for ice cream and similar frozen food products.

3. Animal fat excluding fat derived from milk and (or) dairy products is not allowed in the production of chocolate, chocolate glaze and chocolate mass.

4. Flavoring agents imitating the taste and flavor of chocolate or cocoa products are not allowed in the production of chocolate, chocolate glaze, chocolate mass and cocoa products.

In addition, flavoring agents imitating the taste and flavor of milk, cream and milk fat are not allowed in the production of chocolate, chocolate glaze, chocolate mass and cocoa products that contain dairy product.

5. Food colorants except for the cases specified in the Customs Union Technical Regulations “Safety Requirements to Food Additives, Flavoring Agents and Technological Aids” are not allowed in the production of chocolate, chocolate glaze, chocolate mass, and cocoa products.

6. It is allowed to add food ingredients to chocolate, chocolate mass, chocolate glaze (excluding sugars and (or) sweeteners in all types of the mentioned food products, and also milk powder, cream powder and milk fat in milk, extra-milk, white chocolate and chocolate mass, milk and white chocolate glaze) in the amount of 40.0 percent or less of the mentioned food product mass”.

3. In paragraph 1.4 “Sugar and confectionaries”, Table 1, Attachment 2 “Microbiological Safety Standards” to the Technical Regulations, the following changes shall be made:

- regarding the “Aerobic mesophylic and facultative anaerobic count” parameter in line “ 5×10^3 ” in the “Notes” column, the words “Diabetic chocolate” shall be deleted;

- regarding the “Aerobic mesophylic and facultative anaerobic count” parameter in line “ 1×10^4 ” in the “Notes” column, the words “Plain and fondant chocolate with no additives” shall be replaced with “Bitter, dark, plain chocolate, sweet with no additives; Chocolate for diabetic diet;”;

- regarding the “Aerobic mesophylic and facultative anaerobic count” parameter in line “ 5×10^4 ” in the “Notes” column, the words “Chocolate with additives, with fillings and “Assorted” type sweets, confectionery bars” shall be replaced with the words “Bitter, dark, plain chocolate, sweet with additives; Milk, extra-milk, white chocolate with and without additives; Chocolate with fillings; “Assorted” type sweets; Confectionery and sweet bars; Glazes”;

- regarding the “Aerobic mesophylic and facultative anaerobic count” parameter in line “ 1×10^5 ” in the “Notes” column, the word “commodity” shall be replaced with the words “for retail and public foodservice establishments”; - regarding the “Coliform bacteria” parameter in line “0.1” in the “Notes” column, the words “, confectionery and sweet bars, glazes” shall be added after the words “Assorted” type candies”; - regarding the “Coliform bacteria” parameter in line “0.01” in the “Notes” column the words “commodity, for industrial processing” shall be deleted after the words “cocoa powder”;

- regarding the “Molds” parameter in line “50” in the “Notes” column, after the words “Chocolate: plain and fondant with no additives; diabetic” shall be replaced with the words “Bitter, dark, plain chocolate, sweet with no additives; Chocolate for diabetic diet”;

- regarding the “Molds” parameter in line “100” in the “Notes” column, the words “Chocolate and chocolate candies” shall be replaced with the words “Bitter, dark, plain chocolate, sweet chocolate with additives; Milk, extra-milk, white chocolate with and without additives; “Assorted” type candies; Confectionery and sweet bars; Glazes”;

- regarding the “Yeast” parameter in line “50” in the “Notes” column, the words “and sweet, glazes” shall be added after the words “confectionery” [confectionery bars], and the word “diabetic” shall be replaced with the words “diabetic nutrition”;

- regarding the “Yeast” parameter in line “100” in the “Notes” column, the words “commodity, for industrial processing” shall be deleted after the word “cocoa powder”.

4. Technical Regulations shall be amended with Attachment No.11 as follows:

«Attachment № 11
to the Technical Regulations
of the Customs Union
«On Food Safety » (TP TC 021/2011)

Identification characteristics of chocolate, chocolate glaze, chocolate mass and cocoa products

11.1 It is allowed to manufacture bitter (black) chocolate without introducing cocoa butter, sugars and (or) sweeteners.

11.2 Milk chocolate with the mass fraction of milk fat on a dry matter basis of 5.5 percent or more may be named “creamy chocolate” or “creamy milk chocolate”.

11.3 White chocolate with the mass fraction of milk fat on a dry matter basis of 5.5 percent or more may be named “white creamy chocolate”.

11.4 Identification characteristics of the chocolate mass (bitter (black), dark, plain, sweet, milk, extra-milk, white, fondant) are identical to those established in the present regulations for the corresponding chocolate type.

11.5 Food products, the inside of which consists of bakery and confectionery products or ice cream shall not be qualified as chocolate with filling.

11.6 When trading cocoa powder at the Customs Union Member States markets, it shall be allowed that its name does not specify its type depending on the cocoa butter content (cocoa powder fat-free or high-fat), which in such cases must be identified by the manufacturer and (or) his/her accredited representative, and (or) importer in the shipping documentation ensuring the traceability of cocoa powder.

11.7 Identification characteristics of cocoa butter.

Table 1 – Cocoa butter fatty acid content

Fatty acid trivial name	Fatty acid identification code	Mass fraction of fatty acid, %
Myristinic	C ₁₄ :0	up to 0.7

Palmitinic acid	C _{16:0}	24.0 – 25.2
Stearic acid	C _{18:0}	34.0 – 35.5
Oleic acid	C _{18:1}	37.0 – 41.0
Linoleic acid	C _{18:2}	1.0 – 4.0
Linolenic acid	C _{18:3}	up to 0.2

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